

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-023)**

Subject

Initiative petition from Mark Pedersen regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received March 23, 2021)

Date

April 12, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education and Workforce Development**, the **Department of Health and Senior Services**, the **Department of Commerce and Insurance**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, **St. Louis Community College**, **University of Central Missouri**, **Harris-Stowe State University**, **Lincoln University**, **Missouri State University**, **Missouri Southern State University**, **Missouri Western State University**, **Northwest Missouri State University**, **Southeast Missouri State University**, **Truman State University**, **Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the Kansas City Board of Police Commissioners, and the Metropolitan Police Department - City of St. Louis.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no anticipated impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated:

Section 1, Article XIV, Constitution of Missouri

Initiative Petition 22-023 places on the ballot in November 2022 a proposed amendment to the Constitution that repeals Section 1, Article XIV, Constitution of Missouri relating to medical marijuana for patients with serious illnesses and medical conditions and replaces it with legalized cannabis for personal or medical use. The law is to be implemented no later than January 31, 2023.

It is assumed, as a result of the repeal of the medical marijuana program, a portion of the five (5) months of expenses may be avoided in fiscal year (FY) 2023. The Department of Health and Senior Services (DHSS), Division of Regulation and Licensure (DRL) will require FTE past the January 31, 2023 effective date to complete the discontinuation of the program and handle pending issues including processing refunds. Any remaining balance in the Veterans Health and Care Fund (0606), once all items are closed, will be transferred to the Missouri Veterans Commission. This will result in a \$0 balance in the Missouri Veterans Health and Care Fund.

Their department is not able to estimate the impact the repeal of this section would have on revenues in FY2023. DHSS, DRL does estimate that patients and caregivers will not continue to apply/pay at the same rate as the current program is receiving. DHSS, DRL also estimates a decrease in collections from cultivators, dispensaries, manufacturing facilities, and testing facilities. The repeal eliminates any sales tax charged on medical

cannabis, which would also be a decrease in revenue collected. Any remaining balance in the fund, once all items are closed, will be transferred to the Missouri Veterans Commission. This will result in a \$0 balance in the Missouri Veterans Health and Care Fund.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have minimal cost to their department's Division of Professional Registration, which can be absorbed.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated a fiscal impact of costs savings of \$491,964 in fiscal year 2023, \$1,394,549 in fiscal year 2024, \$2,157,069 in fiscal year 2027.

The estimate of the number of offenders who will be impacted by the legalization of marijuana can be calculated from the sentencing records maintained by their department, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that their department receives. In some cases, the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by the department in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, they assume 3% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2020 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the National Crime Information Center (NCIC) categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	70	3.3%
Other Drug	2,072	96.7%
Total	2,142	100.0%

There were 922 offenders with new commitments to prison in FY 2020 who were admitted only on drug sentences. The average length of those sentences was 5.6 years. Based on

their assumption that 3% of those sentences are related to marijuana, they estimate 28 admissions for offenses related only to marijuana.

In FY 2020, there were 1,263 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what they assume for all new commitments in FY 2021 in estimating their impact.

Based on their analysis of new probation cases related to drug sentences received by the department in FY 2020, approximately 7% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, they assume 7% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2020 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	209	7.0%
Other Drug	2,766	93.0%
Total	2,975	100.0%

There were 5,138 offenders with new probation cases in FY 2020 whose cases were only on drug sentences. Based on their assumption that 7% of those sentences are related to marijuana, they estimate 360 new probations for sentences of people for offenses related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, they apply a 3 year sentence in their estimation of impact.

The estimated maximum cumulative impact of this proposal on department operations is 73 fewer people in prison and 1,164 fewer people under supervision in the field by FY 2027.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	28	28	28	28	28	28	28	28	28
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	0	360	360	360	360	360	360	360	360	360
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	-28	-28	-28	-28	-28	-28	-28	-28	-28
Probations	0	-360	-360	-360	-360	-360	-360	-360	-360	-360
Cumulative Populations										
Prison		-28	-56	-73	-73	-73	-73	-73	-73	-73
Parole				-11	-39	-67	-84	-84	-84	-84
Probation		-360	-720	-1080	-1080	-1080	-1080	-1080	-1080	-1080
Impact										
Prison Population		-28	-56	-73	-73	-73	-73	-73	-73	-73
Field Population		-360	-720	-1,091	-1,119	-1,147	-1,164	-1,164	-1,164	-1,164
Population Change		-388	-776	-1164	-1192	-1220	-1237	-1237	-1237	-1237

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (7 months)	-28	(\$7,756)	\$126,681		(7)	\$365,283	\$491,964	(360)
Year 2 (includes 2% inflation)	-56	(\$7,756)	\$443,023		(14)	\$951,526	\$1,394,549	(720)
Year 3 (includes 2% inflation)	-73	(\$7,756)	\$589,062		(21)	\$1,442,699	\$2,031,761	(1,091)
Year 4 (includes 2% inflation)	-73	(\$7,756)	\$600,843		(21)	\$1,458,266	\$2,059,109	(1,119)

Year 5 (includes 2% inflation)	-73	(\$7,756)	\$612,860		(22)	\$1,544,209	\$2,157,069	(1,147)
Year 6 (includes 2% inflation)	-73	(\$7,756)	\$625,117		(22)	\$1,560,908	\$2,186,025	(1,164)
Year 7 (includes 2% inflation)	-73	(\$7,756)	\$637,620		(22)	\$1,577,833	\$2,215,453	(1,164)
Year 8 (includes 2% inflation)	-73	(\$7,756)	\$650,372		(22)	\$1,594,929	\$2,245,301	(1,164)
Year 9 (includes 2% inflation)	-73	(\$7,756)	\$663,379		(22)	\$1,612,254	\$2,275,634	(1,164)
Year 10 (includes 2% inflation)	-73	(\$7,756)	\$676,647		(22)	\$1,629,754	\$2,306,401	(1,164)

Officials from the **Department of Labor and Industrial Relations** indicated the initiative petition seeks to amend Missouri Constitution Amendment XIV. This proposal would affect the Missouri Department of Health and Senior Services, the Missouri Department of Public Safety, the Missouri Department of Corrections, and the Missouri Department of Commerce and Insurance.

In Missouri, courts will generally not find a cause of action where one is not specifically stated in a statute. However, there are exceptions, especially if no other remedy (such as state or local government enforcement) is provided. Since the legislation prohibits employment discrimination against any person based solely on their use of cannabis, yet does not authorize any government agency to carry out enforcement of the provision, it is possible that a court would view section 285.045 as creating a private cause of action. If so, aggrieved parties might bring a lawsuit in circuit court. Costs are difficult to estimate, but are potentially substantial.

See *Vilcek v. Uber USA, LLC*, 902 F.3d 815 (2018); *American Eagle Waste Industries, LLC v. St. Louis County*, 379 S.W.3d 813 (2012); *Johnson v. Kraft General Foods, Inc.*, 885 S.W.2d 334 (1994); *Byrne & Jones Enterprises, Inc. v. Monroe City R-1 School District*, 493 S.W.3d 847 (2016).

Note that the concept of official immunity protects public officials from liability if those officials act within the course of their official duties and without malice. *Alsup v. Kanatzar*, 588 S.W.3d 187, 190 (Mo. banc 2019). However, official immunity does not apply to situations where public officers fail to perform a ministerial duty required of them by law. In such situations, the public officials may be personally liable for the damages caused. *Id.* at 191.

This would likely have a significant impact on Missouri employers and insurers. Employers would need to make revisions to work policies if cannabis is no longer classified as a drug. Cannabis could still be treated as a mind-altering substance, but revisions to the policies would be necessary. The law is unclear, but since employment denial is outlawed under this provision, it would be reasonable to assume that employment discipline would also be outlawed under this provision.

With greater use of a mind-altering substance, it is likely that more injuries would result at work. This could ultimately drive up Workers' Compensation insurance costs. This would be a cost to private employers, rather than to the department, but nonetheless should be included.

Medical marijuana sales currently occur in the State of Missouri. While this petition appears to further loosen restrictions on medical marijuana commerce, revenue impact at this time remains unknown.

This initiative petition would prohibit employment discrimination against any person based solely on their use of cannabis. We think this would have an impact on all employers, including DOLIR. The language does not include a penalty, but there would likely be a cause of action based on the right created.

Officials from the **Department of Revenue** indicated:

Marijuana businesses may have to charge different sales tax for different products.

Revenue Impact

Currently in Missouri marijuana can be purchased for medical use only. Medical marijuana is taxed at a 4% rate for veterans, it is subject to the state sales tax rate of 4.225% and if there is a local sales tax that is collected. The current amount collected from the veterans 4% tax is \$599,092.

This constitutional amendment first makes marijuana legal for recreational use. It states that it is not considered a controlled substance but shall be considered a food. This

amendment also removes the 4% veteran's tax that is on medical marijuana. It also states that medical marijuana will no longer be taxable.

Making marijuana legal for recreational use creates a new product to be sold in Missouri. All products sold in Missouri are subject to sales and use tax unless specifically exempt. The State sales and use tax rate is 4.225%.

Based on a study completed by Gallup, 12 percent of the nation's adults smoke marijuana regularly. Based on information published on suburbanstats.org, there are approximately 4,181,284 individuals at age 21 or above in the State of Missouri, 12% of the total number of adults aged 21 or older would equal 501,754 adults.

A report published by Headset Inc, a new market insights from Seattle-based cannabis intelligence company, believes that the average cannabis consumer spends roughly \$647 on marijuana and related products per year. Based on information provided in the report published by Headset Inc, the largest pool of individuals surveyed spent \$1,000 or above each year on marijuana and marijuana products. These amount of \$647 and \$1000 will allow us to estimate a fiscal impact range.

The Department notes that sales tax is added to the purchase prices. Therefore at the low rate of \$647 we assume total taxable sales of \$324,634,838 ($\$647 * 501,754$). Therefore at the low end we estimate the 4.225% collected sales tax would be \$13,715,822 ($\$324,634,838 * 4.225\%$).

At the upper rate of \$1,000 we assume a total taxable sales of \$501,754,000 ($\$1,000 * 501,754$). Therefore at the upper end we estimate the 4.225% collected sales tax would be \$21,199,107 ($\$501,754,000 * 4.225\%$).

This would result in an increase of revenue to the following funds.

	Low Estimate	High Estimate
General Revenue	\$9,739,045	\$15,052,620
School District Trust Fund	\$3,246,348	\$5,017,540
Conservation Commission	\$405,794	\$627,193
Park, Soil & Water Fund	\$324,635	\$501,754
Local Governments	\$4,496,193	\$6,949,293

The Department, for local political subdivisions, assumes a rate of 1.385% based on historical records. It should be noted that all jurisdictions do not collect a sales tax and it is unclear if additional local political subdivisions will implement one.

It should be noted that this proposal states that cannabis shall hence forth be considered a food. Per statutes food is assessed a sales tax rate of 1.225% instead of the 4.225%. The 3% portion that goes to general revenue is not collected on food. However, the current statute that allows for the lower sales tax on food defines food as a product in which Federal Food Stamps can be redeemed. Therefore cannabis does not qualify for the reduced sales tax rate and will be assessed at the 4.225%.

This proposal eliminates the 4% veteran's tax that is currently charged on medical marijuana. This would result in a loss to the Missouri Veterans' Health and Care Fund of at least \$599,092 annually.

This proposal eliminates the 4.225% sales tax on medical marijuana. This would result in a loss of the revenue to the state. At the time of the fiscal note, the medical marijuana laws have not been in place for at least a year. Therefore, any loss of revenue from the medical marijuana provisions really is still unknown. It is assumed that any loss from the medical marijuana sales tax provision will be greatly outweighed by the increase in revenue from recreational marijuana.

Officials from the **Department of Public Safety - Office of Director** indicated this language has no impact for their office. The impact on the Missouri State Highway Patrol is as follows:

Missouri State Highway Patrol - Impact and Concerns

Currently there are approximately 66,653 records in the Traffic Arrest System (TAS) pertaining to arrests completed by the Missouri State Highway Patrol that could possibly meet the requirements of this proposed constitutional amendment. (These are arrest records with or without a court conviction with an NCIC modifier of 60-64 that relate to marijuana offenses.) However, due to the uncertain nature of this proposal to amend Missouri's Constitution, the Patrol Records Division (PRD) has no true way to determine the actual impact associated with such a proposal. If PRD is required to simply complete a mass expungement of all 66,653 records without processing individual court orders, then this could probably be completed by the Criminal Justice Information Services Division (CJIS) programming the TAS. However, if PRD is required to process 66,653 court orders for this endeavor, then the division will require a minimum of 214 employees to process the court orders within a 30-day time frame.

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840 / 30.

3,728 expungements per year / 12 months per year = 311 expungements per month.

$66,653 / 311 = 214$ temporary employees to complete 100% of the expungements within 30 days of the aforementioned court ordered immediate record expungements.

The Patrol assumes these temporary employees would be paid at least \$10 an hour, which would be approximately \$400,000 per month including the fringe benefit rate for a temporary employee. With 30 days of training and then 30 days of processing expungements, it would be a total of two months, for a total cost of approximately \$800,000.

It would be a tremendous challenge to hire 214 temporary employees, knowing they would only be employed for 30 days after training.

The fiscal impact would also include the cost associated with replacing all the Patrol's canines. The Patrol's canines are currently trained using cannabis/marijuana as one of four drugs they are to alert to. This would mean our current canines would have to be retired. The purchase and initial training for a canine is approximately \$22,000. The overall cost to purchase and train the current canine program would be approximately \$176,000 (\$22,000 X 8). The time to train all eight canines could take up to three years. Not only will there be a financial impact to the Patrol, there will also be an impact to the services provided to other law enforcement agencies until the unit reaches full capacity.

In addition to the fiscal impact, the following are the Patrol's concerns based on what other states have reported:

In 2009, Colorado traffic fatalities involving drivers testing positive for marijuana represented 9% of the total traffic fatalities. Recreational marijuana use was legalized in 2012. By 2016, that number more than doubled to 21%.

Marijuana-related traffic deaths increased 66% in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.

Marijuana-related deaths when a driver tested positive for marijuana more than doubled from 55 deaths in 2013 to 125 deaths in 2016.

The yearly number of marijuana related hospitalizations increased 72% after the legalization of marijuana, (2009-2012) vs. (2013-2016).

Colorado's youth for 2014/2015 marijuana use was 55% higher than the national average.

The average THC levels in marijuana has increased significantly over the years: 1969-0.8%, 1995-4%, 2013-13%, 2017-20+%, Oil, 1995-13%, 2013-52%, highest plant 38%, highest oil 95%+.

Medical marijuana has been legal in the state of Colorado since 2000. On November 12, 2012, the state of Colorado passed Amendment 64, which legalized private use of

marijuana. Per the Colorado State Patrol's driving under the influence statistics, marijuana DUI citations increased 25.5% from 2014 to 2018 and marijuana and alcohol citations increased 112% in the same time range. As marijuana becomes legalized, its use increases.

The three years after Colorado legalized marijuana for recreational use (2013-2015), its use increased in youth ages 12-17, by 12%, in young adults aged 18-25 by 16%, and adults 26 and older by 71%. By removing the recommended acceptable ages of use, zoning regulations, packaging, and advertising of cannabis/marijuana, the risk of use and abuse of marijuana by the youth of Missouri is substantially increased. This category of Missourians, who recent studies have shown significant long-term cognitive impairment when marijuana is ingested during the developmental years, would be affected.

In Missouri, medical marijuana was legalized by Amendment 2 and took effect December 2018. As of June 10, 2019, 12 states have legalized recreational marijuana and 29 states have legalized medical marijuana. In a 2013-2014 National Highway Traffic Safety Administration (NHTSA) roadside survey, 20% of the nighttime and weekend drivers tested positive for drugs. Interestingly, the number of daytime drugged drivers was approximately the same amount as night and weekend drugged drivers. A roadside study in Colorado and Washington, the first two states to legalize marijuana for recreational use, showed the primary increase of marijuana users happened to their daytime drivers. The percent of drivers that tested positive for marijuana during the day went from 8%, before recreational marijuana sales, to 23%, 6-12 months after marijuana was legalized. There was a 48% increase in weekend nighttime drivers testing positive for THC or 11-OH-THC (an active metabolite of THC) from 2007 to 2014.

Montana legalized medical marijuana in 2004 and from 2007-2010, the presence of marijuana in DUI suspects increased over 100%. Also, the number of DUI suspects who tested positive for alcohol and marijuana increased by over 180%.

This has Department of Health and Senior Services (DHSS) being the agency that enforces it. The concern is that DHSS has no police powers which would inhibit enforcement efforts.

This initiative petition will remove cannabis/marijuana from Missouri Revised Statutes, creating conflict with both several Federal and State laws, such as the use or possession of a firearm, and could conflict and violate federal law. This initiative petition does not support the Gun Control Act (GCA), codified at 18 U.S.C. § 922.

This proposed language in Section 6(f) only applies to Missouri's courts since the central repository is not noted in the petition, therefore, there would be no CJIS impact. However, if the language was modified to include the central repository there would be a technical impact on CJIS to remove any offenses identified in the proposal including FBI records.

As the Patrol has officers assigned to federal task forces that may be involved in a federal drug operation, there are concerns over potential civil litigation resulting from these types of operations, as marijuana is still classified as a Schedule I controlled substance, and illegal under federal law.

The Patrol operates in accordance with the Drug-Free Workplace Act of 1988, which requires a drug testing program. This program tests potential employees as well as random testing for incumbent employees in enforcement, and drug sensitive areas. The initiative petition creates a conflict with federal law with regard to marijuana and current employment standards. This can be seen in Section 3, (g) "No one shall be denied employment solely based on their use of Cannabis", and Section 4, (a), "All patients engaged in Cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through conventional therapeutic means, whether or not under the care of a physician", as well as concerns with any state and federal grant requirements for drug free workplace.

Another concern is the inability to properly train officers as laws have not yet been established. Further training is currently needed on medical marijuana laws, and more training will need to be established if this passes. Once recreational use passes, other intoxicating/impairing substances may be targeted for legalization/decriminalization as they have in many other states. One example is Oregon which has decriminalized psilocybin, cocaine, heroin, oxycodone, methamphetamine, and other drugs.

If passed, this petition will conflict with federal cannabis/marijuana laws and could cause significant conflict with several Federal and State laws, such as the use or possession of a firearm. Cannabis/marijuana causes impairment and is not a suitable drug to be used in various safety sensitive positions in the workforce, therefore strong language protecting employers is suggested. The workforce which could be affected would include any position where safety is a must, such as operating a motor vehicle, operating heavy machinery, and all aspects of public safety.

There is no language as to where the cannabis/marijuana may remain, such as any cannabis/marijuana purchased or grown in Missouri must remain in Missouri. While this is a federal offense, a lack of this type of language may allow Missouri cannabis/marijuana facilities to distribute cannabis/marijuana outside of the state or allow other states to distribute their cannabis/marijuana in Missouri. A lack of such language could lead to Missouri being a distribution state for states where cannabis/marijuana remains illegal.

For further consideration, as the legalization or decriminalization of cannabis/marijuana has increased in the past several years, so have the crashes and deaths on our highways. Blood screenings on drivers in serious injury and fatal crashes have shown a staggering increase in drivers who have cannabis/marijuana within their system at the time of the crash.

Overall cost to the Patrol:

214 temporary employees = \$800,000

8 new canines for the canine program = \$176,000

Total cost = \$976,000

Officials from the **Department of Social Services** indicated a fiscal impact of negative \$173,060 to negative \$2,161,697 in fiscal year 2023 and negative \$158,502 to negative \$2,147,139 in fiscal year 2024.

BILL SUMMARY:

Initiative petition 22-023 / Constitutional Amendment to Article XIV Section 1 of the Missouri Constitution SUMMARY: amends Article XIV Section 1 relating to medical marijuana -- "Missouri Cannabis Restoration and Protection".

Section 1 - Removes language permitting state-licensed physicians to prescribe marijuana. Removes marijuana from Missouri Revised Statutes list of controlled substances and classifies it as a food product, not a controlled substance.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 2 - Establishes definitions for "Cannabis" and related terms in this section.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 3 - Removes current rules concerning personal and commercial use of Cannabis and makes possession, cultivation, consumption, etc. for recreational or medical personal use legal in all respects.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 4 - Removes taxation and reporting. Allows physicians and veterinarians to prescribe Cannabis at will to patients. Medical care, including organ transplants, shall not be restricted based on a person's use of Cannabis.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 5 - Removes "Additional Patient, Physician, and Caregiver Protections" as they are no longer needed. Adds "Zoning", which states that Cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning or excessive licensing requirements that are discriminatory in any way.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 6 - Removes "Legislation" and adds "Law Enforcement and the Courts". Sets forth rules for law enforcement and court interaction with Cannabis users/possessors concerning driving under the influence, assisting federal authorities, civil asset forfeiture, etc.

CD response:

6(b) Federal eligibility for Child Abuse Prevention and Treatment Act (CAPTA) grants requires that all health care providers must notify state child protective services of all infants born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or fetal alcohol spectrum disorder. This initiative would make such referrals permissive for infants born to women who test positive for marijuana. In 2018, failure to make all such referrals mandatory under Missouri law prompted the Administration of Children and Families (ACF) to inform Children's Division (CD) that ACF would be forced to withhold—and if left unresolved deny—Missouri its CAPTA grant or Children's Justice Act (CJA) grant funding for FY2019. There is the potential for the federal government to deny federal funding for the Children's Division.

Children's Division received roughly \$314,000 in CJA grants and \$1,671,637 in CAPTA grants last year which would require GR to pick up for the loss of funding. This is expressed as a range, because federal denial of funding is uncertain.

6(e) This subsection would require the destruction of all of Children's Division's cannabis related non-violent civil and criminal records. Identifying those records and amending the related Child Abuse Neglect findings would require additional staff.

In FY2020 there were 55,853 reports alerted to the field. It is estimated that 20% of those calls could be marijuana related and subject to needed review and potential amendment and destruction totaling 11,171 reports.

Based on fiscal calculations this would require 2.0 FTES (\$158,502 annually by FY2024).

Section 7 - Removes "Additional Provisions" and adds "Regarding Federal Law". Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal Cannabis prohibitions that conflict with this Act.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 8 - Removes "Severability" and adds "Existing Local, State and Federal Law". All provisions of this section shall supersede conflicting city, county, state or federal statutory, local charter, ordinance or resolution.

CD response:

The Children's Division does not anticipate a fiscal impact.

Section 9 - Removes "Effective Date" and adds "Implementation". The dictates of this initiative, unless otherwise indicated by this initiative, shall be implemented no later than January 31st, 2023.

CD response:

The Children's Division does not anticipate a fiscal impact.

Officials from the **Governor's office** indicated this proposal, which removes cannabis from Missouri's list of controlled substances, as well as removing other current Missouri prohibitions relating to cannabis possession, use, and economic activities, should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated:

FEDERAL LAW PROHIBITS COMMERCIAL MOTOR VEHICLE (CMV) DRIVERS' USE OF CANNABIS

Regardless of what the States' stances are on cannabis, Federal DOT prohibits the use of cannabis by drivers of commercial motor vehicles, as the DEA currently considers THC to be a Schedule I controlled substance. The only exception is the Schedule V Cannabidiol (CBD) drug Epidiolex used to treat seizures. Their department believes that this is the only drug containing THC (.1% or less) that commercial motor vehicle drivers are allowed to take if medically prescribed by a licensed physician. All other medical marijuana is Schedule I.

VARIANCE ADDRESSED

The initiative petition does create a variance with the Federal Motor Carrier Safety Regulations (FMCSRs) with respect to "the immediate expungement of civil and criminal records pertaining to all non-violent Cannabis only offenses which are no longer illegal in the State of Missouri under this Act."

Title 49 CFR Part 391.15 addresses disqualification of drivers (Commercial Driver's License (CDL) and non-CDL CMV drivers). A driver who is convicted of a disqualifying offense is disqualified for one year from the date of conviction for first offenders and 3 years after the date of conviction if during the previous 3 years preceding the conviction date the driver was convicted of a disqualifying offense.

Two of the disqualifying offenses reference driving a CMV under the influence of a Schedule I substance and transporting, possessing or using a Schedule 1 substance while on duty:

49 CFR 391.15(c)(2)(ii) Driving a commercial motor vehicle under the influence of a 21 CFR 1308.11 Schedule I identified controlled substance, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug;

49 CFR 391.15(c)(2)(iii) Transportation, possession, or unlawful use of a 21 CFR 1308.11 Schedule I identified controlled substance, amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs while the driver is on duty, as the term on-duty time is defined in § 395.2 of this subchapter;

They are going to assume driving under the influence of marijuana will continue to be illegal in Missouri and the DUI of marijuana prior convictions will not be expunged.

However, a CMV driver convicted of possession of marijuana while on duty is a disqualified driver. This is true whether the marijuana possessed is in a State that considers it legal.

If prior non-violent possessions of marijuana convictions are wholly expunged from the criminal records, CMV drivers who would be disqualified under current law would be allowed to drive.

This variance would affect Motor Carrier Safety Assistance Program (MCSAP) funding. Missouri's share of MCSAP funds in FY 2021 are \$7,060,488. The federal penalty for this variance is unknown at this time, but would range from between no penalty to the loss of this entire share of federal funds.

This bill could cause a significant impact to their operations and employment. It legalizes marijuana for all use, and prohibits employers from disciplining/terminating employment due to marijuana use. However, with marijuana still prohibited by federal law, and their department being subject to the FMCSRs on drug testing, they would be in the position of being in conflict with one of the laws or walking a very fine line between the two. If an employee (or pre-employment/post-offer hire) tests positive for marijuana on a United State Department of Transportation (USDOT)-required drug test, the FMCSR requires their department to remove that employee from safety sensitive functions until certain criteria are met. Currently, their policy is to simply terminate the employment of anyone who tests positive for marijuana or other illegal drugs. In order to comply with this initiative petition, they would have to leave the employee in their position. But to comply with the FMCSR, the employee could not perform any safety sensitive functions. This would cause many employees to be exempt from essential functions of their positions, which would mean they are not getting the full value of the employee's wages that are being paid, and could also require them to hire additional employees to perform the safety sensitive functions of the employee who tested positive.

In CY 2020, they had 17 employees and 5 pre-employment/post-offer employees test positive for marijuana. To date in CY 2021, they have had 4 employees test positive for marijuana. If marijuana were to become legal under state law, these numbers would likely increase.

The prohibition of the use of marijuana being used as the basis of a driving under the influence charge also has highway safety concerns. This could cause an indirect fiscal impact on their department, as it could cause an increase in crashes on the roadway. These

crashes could result in damage to the roadway that must be repaired and/or an increase in claims of dangerous conditions in the highway.

Officials from the **Office of Administration** indicated this proposal amends Article XIV, Section 1 of the Missouri Constitution by repealing all of the medical marijuana language that was voter approved in November 2022 and replacing it with language for recreational marijuana.

Section 1.1 states that cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances. **Section 1.6** requires, upon passage of the act, the immediate release of all persons incarcerated or under Probation and Parole supervision for non-violent cannabis-only offenses as well as expungement of their records pertaining to these offenses within 60 days. The Office of Administration, Division of Budget and Planning (B&P) defers to the Department of Corrections for the estimated impact from this provision.

Section 1.4 states that medical cannabis shall be available to patients without taxation as long as a patient has a physician's recommendation. B&P notes that it is unclear if the term "recommendation" refers to a medical prescription or simply a suggestion. B&P further notes that if "recommendation" is interpreted to mean anything other than prescription, potential subsequent sales and/or excise tax revenues to the state could be significantly negatively impacted. B&P also notes that this proposal does not include any regulatory framework or specify any agency responsible for enforcement of medical marijuana sales.

B&P notes that no specific tax levy is included within this proposal. Therefore, B&P assumes that only current state and local sales taxes would be applied to the sale of non-medical cannabis. Section 1.1 defines cannabis as "food". B&P notes that per Section 144.014, RSMo., the 3% state general revenue sales tax is not applied to food purchased through a vending machine or on food for which food stamps may be redeemed. B&P assumes that under this definition, cannabis products could still be subject to the 3% general revenue sales tax, unless the cannabis is sold through vending machines.

In addition, this proposal would eliminate the 4% tax on medical marijuana sales that under current law is dedicated to the Missouri Veterans' Health and Care Fund.

B&P further notes that this proposal does not specify the age individuals must be to purchase cannabis. For the purpose of this fiscal note, B&P assumes that an individual must be at least 18 years old; however, as written, it appears that minors could also purchase cannabis. A change in the age assumption could change the estimated fiscal note impacts shown below.

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis¹. According to such forecasts, the U.S. market for legal marijuana will be approximately \$32.1 billion in calendar year 2023 and grow up to \$47.3 billion by calendar year 2027. Based on information from the Substance Abuse and Mental Health Services

¹ <https://cannabusinessplans.com/cannabis-legal-market-size-projections/>

Administration², from 2018-2019 approximately 15.03% of Missouri residents and 16.98% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents age 18 and over compared to the U.S. population age 18 and over, B&P estimates that the market for legal marijuana in Missouri is 1.66% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately \$534.1 million in calendar year 2023 (\$32.1 billion x 1.66%) and up to \$787.1 million by calendar year 2027 (\$47.3 billion x 1.66%).

Based on further research³, B&P estimates that there could be between 61,700 to 122,500 medical marijuana users in Missouri. Using these estimates, and the estimates shown above, B&P estimates that the Missouri market for medical marijuana would be between 0.14% and 0.29% of the total U.S. Market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana would be 1.38% to 1.52% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for the U.S. and Missouri

Calendar Year	Estimated U.S. Market Size	Estimated MO Market Size	Estimated MO Medical Market Size	Estimated MO Recreational Market Size
2023	\$32,100,000,000	\$534,147,370	\$68,884,957	\$465,262,414
2024	\$35,900,000,000	\$597,379,769	\$85,613,340	\$511,766,429
2025	\$39,700,000,000	\$660,612,168	\$102,341,724	\$558,270,445
2026	\$43,500,000,000	\$723,844,567	\$119,070,107	\$604,774,460
2027	\$47,300,000,000	\$787,076,966	\$135,798,491	\$651,278,476

Based on the estimates for the medical marijuana market, B&P estimates that the Missouri Veterans' Health and Care Fund would lose (\$1.4 million) in funding during calendar year 2023. By calendar year 2027, the Fund would lose up to (\$5.1 million).

Applying the state sales tax rate of 4.225% and excluding the estimated market for medical marijuana B&P estimates that this proposal may increase state revenues by \$16.9 million in calendar year 2023. By calendar year 2027, B&P estimates that this proposal may increase state revenues by \$22.1 million. This proposal could also increase local revenues by \$18.8 million in calendar year 2023 and \$26.2 million by calendar year 2027. Table 2 shows the estimated revenues generated by calendar year.

² <https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district>

³ https://www.stltoday.com/news/local/metro/plenty-of-pot-study-says-missouri-will-license-twice-as/article_e94469b0-e1c6-5893-bc2e-e1d7b24f4a73.html

Table 2: Sales Tax Collections by Calendar Year (CY)

Fund	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
GR (3.0% tax)	\$13,957,872	\$15,352,993	\$16,748,113	\$18,143,234	\$19,538,354
Education (1.0% tax)	\$4,652,624	\$5,117,664	\$5,582,704	\$6,047,745	\$6,512,785
Conservation (0.125% tax)	\$581,578	\$639,708	\$697,838	\$755,968	\$814,098
Parks, soil, water (0.1% tax)	\$465,262	\$511,766	\$558,270	\$604,774	\$651,278
Veterans' Health and Care Fund (4% tax)	(\$2,755,398)	(\$3,424,534)	(\$4,093,669)	(\$4,762,804)	(\$5,431,940)
TSR (total 4.225% state sales tax)	\$16,901,939	\$18,197,598	\$19,493,257	\$20,788,917	\$22,084,576
Local Revenue (pop. weighted local rate 4.03%)	\$18,750,075	\$20,624,187	\$22,498,299	\$24,372,411	\$26,246,523

However, B&P notes that if voter approved in November 2022, this proposal would not be enacted until January 1, 2023, which is halfway through FY 2023. Based on historical sales tax collection data, B&P adjusts calendar year collections 50% into the first fiscal year (FY) and 50% into the second fiscal year. Therefore, B&P estimates that this proposal will increase state revenues by \$8.5 million in FY 2023. BY FY 2028, this proposal may increase state revenues by \$22.1 million. This proposal may also increase local revenues by \$9.4 million in FY 2023 and up to \$26.2 million by FY 2028. Table 3 shows the estimated revenue generated by fiscal year.

Table 3: Sales Tax Collections by Fiscal Year (FY)

Fund	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GR (3.0% tax)	\$6,978,936	\$14,655,433	\$16,050,553	\$17,445,674	\$18,840,794	\$19,538,354
Education (1.0% tax)	\$2,326,312	\$4,885,144	\$5,350,184	\$5,815,225	\$6,280,265	\$6,512,785
Conservation (0.125% tax)	\$290,789	\$610,643	\$668,773	\$726,903	\$785,033	\$814,098
Parks, soil, water (0.1% tax)	\$232,631	\$488,514	\$535,018	\$581,522	\$628,026	\$651,278
Veterans' Health and Care Fund (4% tax)	(\$1,377,699)	(\$3,089,966)	(\$3,759,101)	(\$4,428,237)	(\$5,097,372)	(\$5,431,940)
TSR (total 4.225% state sales tax)	\$8,450,969	\$17,549,768	\$18,845,428	\$20,141,087	\$21,436,746	\$22,084,576
Local Revenue (pop. weighted local rate 3.86%)	\$9,375,038	\$19,687,131	\$21,561,243	\$23,435,355	\$25,309,467	\$26,246,523

B&P notes that due to the bill's lack of clarity concerning what constitutes a medical marijuana exemption and the age required to purchase, these estimates may be different from actual collections.

Section 1.5 states that cannabis farmers, manufacturers, and distributors shall not be subject to special zoning or license fees that are contrary to any other commercial or

agriculture business. B&P notes that under Amendment 2 (which this language is replacing) medical marijuana facilities are subject to various license and renewal fees. B&P defers to the Department of Health and Senior Services for the potential lost revenue from the removal of the current language.

Section 1.8 states that all provisions of Section 1 shall supersede conflicting city, county, state or federal statutory, local charter, ordinance, or resolution. B&P notes that state law may not supersede federal law.

Officials from the **Office of State Courts Administrator** indicated the initiative petition proposing to amend Article XIV establishes and modifies provisions relating to the legalization of marijuana for adult use.

The average of all marijuana related charge codes from 2015 to 2019 for Circuit case types is 2,457 per year. The average of all marijuana related charge codes from 2015 to 2019 for Associate case types is 8,153. They are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this proposed legislation:

Criminal Court Costs		
Felony Case Costs	Amount of Cost	Disburse to State/County
Basic Civil Legal Services Fund surcharge	\$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	\$45.00	State of Missouri - General Revenue \$36, County \$9
County Fee	\$75.00	County
Court Automation Fund Fee	\$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	\$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	\$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	\$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	\$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	\$1.00	State of Missouri - Motorcycle Safety Trust Fund

Peace Officer Standards & Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	\$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	\$5.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	\$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	\$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	\$2.00	State of Missouri - Spinal Cord Injury Fund
Total	\$283.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	\$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	\$15.00	\$12 State of Missouri / \$3 County
County Fee	\$25.00	County
Court Automation Fund Fee	\$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	\$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	\$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	\$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	\$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	\$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	\$5.00	\$0.50 State of Missouri / \$0.50 County
Sheriffs' fee	\$10.00	County

Sheriffs' Retirement Fund surcharge (except 21st Circuit)	\$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	\$2.00	State of Missouri - Spinal Cord Injury Fund
Total	\$106.50	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	\$15.00	\$12 State of Missouri / \$3 County
Court Automation Fund Fee	\$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	\$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	\$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	\$3.00	Sheriffs' Retirement Fund
Total	\$33.50	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	\$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts and to the specific funds.

They also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time they are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be \$7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates \$75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated they provide representation in over 5,000 cases involving possession of controlled substance. The exact number that involve cannabis is unknown at this time. This initiative petition would result in a decrease in case intake for Missouri State Public Defender. Because current case numbers are such that they are unable to provide competent counsel in all eligible cases, the reduction in intake as a result of this initiative would not reduce the number of necessary staff. The initiative could however, bring their office closer to reasonable caseloads.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following as a result of this petition and amendment:

Revenues:

- Increase in sales taxes ~\$100,000
- Increase in property taxes ~\$20,000
- Increase in zoning fees ~1,000
- Decrease in juvenile detention reimbursements (\$1,000)
- Decrease in federal equitable sharing ~(\$10,000)
- Decrease in criminal/court fees ~(\$2,000)
- Total ~\$108,000

Expenditures:

- Decrease in traffic/DUI OT and enforcement ~(\$2,000)
- Decrease in court/prosecution costs ~(\$2000)
- Decrease in Juvenile costs ~(\$5,000)
- Increase in DARE costs ~\$1,000
- Total ~(\$8,000)

Total savings to the County of \$116,000 from estimated \$108,000 in increased revenues and cost savings of \$8,000.

All amounts are on an annual basis.

Officials from **Greene County** indicated there is anticipated costs to the County of Greene for this initiative petition, per the following information concerning this initiative petition, <https://static1.squarespace.com/static/5541a76ae4b0175cee8827d0/t/580684e5ff7c50adea98399e/1476822252561/Letter+to+CA+from+Denver+DA.jpg> provided by their County Prosecutor, Dan Patterson.

To fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors and the circuit courts within the proposed changes of this initiative petition, which the attached letter demonstrates occurred in Colorado after similar legislation passed.

County Prosecutor, Dan Patterson provided the following information:



DenverDA

Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202

Bus. Phone: 720-913-9001
Fax: 720-913-9031

October 12, 2016

No on 64 Campaign and SAM Action

California voters are being told that they will see the crime rate go down if they vote to legalize marijuana commercially; this has not been the case in the state of Colorado or the city of Denver. Since the legalization of recreational marijuana in Colorado in 2013 traffic related marijuana deaths have increased 48%, marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%. According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents. Aurora, Colorado's homicide rate more than doubled from 2014. Additionally more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year. In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana the number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System. In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

California voters are also being told that legalizing recreational marijuana will free up law enforcement to work on other criminal activities. Again that has not been the case in Denver. Besides the overall increases in crime we have experience, the Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marijuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate. The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds. In Denver unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell R. Morrissey". The signature is stylized with a large, sweeping flourish at the end.

Mitchell R. Morrissey
Denver District Attorney

Officials from the **City of Kansas City** indicated this petition to amend Article XIV if approved would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Central Missouri** have determined the potential for an increase in costs of staff time, however it is too broad in scope to determine an estimated amount. The university would likely want to create a policy to restrict use on campus (similar to tobacco) and that would take staff time to draft, review, and approve policies. Additionally, they might see an increase in public safety interactions for students who are using and/or enforcement of any new policies. All of which they cannot really determine at this point in time as it is too prospective. Also, the proposed amendment could put them in violation of the Safe and Drug-Free Schools and Communities Act and it could impact future federal funding.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor



Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

March 24, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-023 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving \$16,800,000 in SFY22, and significantly greater amounts in subsequent fiscal years from the tax revenues generated from the retail sales of medical marijuana. The Petition eliminates tax revenues from medical marijuana in their entirety in section 4. Moreover, the Petition is silent on any taxation program to replace the medical marijuana taxation program, so there is no proposed mechanism to replace the revenues lost from the current medical marijuana program. Therefore, if enacted, Initiative Petition 2022-023 will have a devastating impact on the ability of the Missouri Veterans Commission to serve the veterans of Missouri. If I can be of any further assistance on this issue, please contact me at (573) 751-4066 at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Kirchhoff", is written over the printed name.

Paul Kirchhoff
Executive Director
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services, the Kansas City Board of Police Commissioners, and the Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate savings of at least \$2 million annually and an annual impact to revenues ranging from a \$12 million decrease to a \$22 million increase by 2028. Local governmental entities are estimated to have revenue increases ranging from \$4 million to \$26 million annually by 2028.